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RECENT DECISIONS

ACKNOWLEDGMENT—COMPETENCY TO TAKE.—A corporation to secure a previous loan, took a mortgage on realty which was acknowledged before a notary public who was an officer and stockholder in the corporation. *Held*, the acknowledgment is valid. *First National Bank v. Merrill*, 167 Cal. 392, 139 Pac. 1066.

Where a person taking an acknowledgment to an instrument inuring to the benefit of a corporation is an officer in such corporation but has no other interest therein, by the weight of authority his interest is not such as to preclude him from taking the acknowledgment. *Keene, etc., Bank v. Lawrence*, 32 Wash. 572, 73 Pac. 680; *Ardmore Nat. Bank v. Briggs*, 20 Okl. 427, 94 Pac. 533, 23 L. R. A. (N. S.) 1074. Where he is a stockholder his interest is sufficient to disqualify him. *Smith v. Clark*, 100 Ia. 605, 69 N. W. 1011; *Miles v. Kelley*, 16 Tex. Civ. App. 147, 40 S. W. 599. *A fortiori*; where such person is both a stockholder and an officer. *Ogden Bldg. & L. Assn. v. Mensch*, 196 Ill. 554, 63 N. E. 1049, 89 Am. St. Rep. 330. The determination of this question depends on whether a notary in taking an acknowledgment is acting in a ministerial or a judicial capacity. The courts are united in declaring the examination of a married woman to be a judicial act. *Withers v. Baird*, 7 Watts (Pa.) 227, 32 Am. Dec. 754. And by the weight of authority acknowledgments as in the principal case are judicial. *Ogden Bldg. & L. Assn. v. Mensch*, *supra*; *First National Bank v. Citizens Bank*, 11 Wyo. 32, 70 Pac. 726, 100 Am. St. Rep. 925; *contra*, *Read v. Toledo L. Co.*, 68 Ohio St. 280, 67 N. E. 729, 96 Am. St. Rep. 663, 62 L. R. A. 790. The principal case would seem to take the minority view.

ADMIRALTY — JURISDICTION — AEROPLANES.—A suit in admiralty was brought to recover for repairs to an aeroplane which had fallen into navigable waters while flying over the same. *Held*, an aeroplane is not the subject of the admiralty jurisdiction. *The Crawford Bros. No. 2*, 215 Fed. 269.

It is difficult to conceive how an aeroplane could be subject of admiralty jurisdiction. In addition to floating upon the water, the structure must be navigable, to bring it within the cognizance of admiralty. *Cope v. Vallette Dry Dock Co.*, 119 U. S. 627; *Snyder v. A Floating Dry Dock*, 22 Fed. 685. Jurisdiction has been refused because the structure was not designed for navigation, although it was capable of such, and had been sometimes, though rarely, so used. *Ruddiman v. A Scow Platform*, 38 Fed. 158. But this decision would seem incorrect in so far as it rests upon that ground. *Woodruff v. One Covered Scow*, 30 Fed. 269.

The structure must also be for the transportation of persons or cargo, or be an aid to commerce and navigation. See *The Cheeseman v. Two Ferry Boats*, 2 Bond 363, Fed. Cas. No. 2633; *The Hezekiah Baldwin*, 8 Ben. 556, Fed. Cas. No. 6449; *The Old Natchez*, 9 Fed. 476, 478; *Woodruff v. One Covered Scow*, *supra*.